

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

07 CV. 6419

THE CITY OF NEWBURGH,

Plaintiff(s),

vs.

96 BROADWAY, LLC and
DOUGLAS R. DOLLINGER,

Defendant(s).

) Case No.: 07CV

)

)

)

)

)

)

)

)

)

)

PETITION-NOTICE
FOR REMOVAL

Civil Action No. 2007/5544

ROBINSON

S.D. OF N.Y.

2007 JUL 16 A 8:12

FILED
U.S. DISTRICT COURT

Petitioner, DOUGLAS R. DOLLINGER, (hereafter "DOLLINGER") and a named defendant in the above-entitled action files this Notice for Removal in the foregoing cause from the Supreme Court for Orange County New York to this United States District Court for the Southern District of New York, and respectfully shows this Court:

1. On or about the 22 day of June, a Summons and Complaint were filed against DOLLINGER and other named Defendants herein in and for the County for Orange, entitled THE CITY OF NEWBURGH v. 96 BRAOWAY, LLC, Index No. 5544/07 and served on DOLLINGER only by with an order to show cause. The foregoing were served on or about June 23. 2007. A copy of the Summons and Complaint are annexed hereto as Exhibit "A". No further proceedings have been had herein.

2. The above-entitled described action is one of which this Court has original jurisdiction under the provisions of Title 28, United States Code Section 1331 and involves a federal question and is one which may be removed to this Court pursuant to Title 28, United States Code Section 1441.

3. This Court has “federal question” jurisdiction in this case under 28 U.S.C. § 1331, as Defendant is asserting claims and defenses arising under the laws of the United States and the U.S. Constitution. Specifically, actions involves federal questions related to **(1)** Plaintiffs’ rights under the 5th and 14th Amendments to the US Constitution, and violations of Plaintiffs’ civil rights under Part II: 42 U.S.C. sec. 1983 (due process and equal protection clauses), **(2)** violations of Part III: 42 U.S.C. sec. 1985 (1) & (3) (conspiracy).

4. Because various claims will be asserted arising under state law that form part of the same “case or controversy” as claims arising under federal law, this Court also has “supplemental jurisdiction” pursuant to 28 U.S.C. § 1367 involving **(3)** fraud by omission and nondisclosure, **(4)** common law conspiracy, **(5)** negligent infliction of emotional distress, and **(6)** intentional infliction of emotional distress, **(7)** abuse of process, **(8)** defamation, libel and slander,

5. Venue is appropriate in the Southern District of New York pursuant to 28 U.S.C. § 1391(b)(1) and (2), because Defendants reside in this judicial district, and all events giving rise to this cause of action occurred in this judicial district.

6. The Notice for Removal is being filed within 30 days after receipt by DOLLINGER of the Summons and Complaint and is timely filed under U.S. C. 1446(b). Petitioners time to answer or move with respect the Complaint has not expired.

WHEREFORE, Petitioner prays that the above-named action now pending against it in the Supreme Court, County of Orange, State of New York, be removed therefrom to the United States District Court for the Southern District of New York.

Dated: Newburgh, New York
July 16, 2007

Yours, etc.,


DOUGLAS R. DOLLINGER, ESQ.

Attorney for Plaintiff(s)

P.O. Box 1111

96 Broadway

City of Newburgh

Newburgh, New York 12550

Tele. (845) 562-9601